

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 00-0380P

Use Tax

Calendar Years 1997, 1998, and 1999

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer protests the penalty assessed on an audit completed on June 26, 2000.

Taxpayer is a manufacturer and retailer of organic gardening supplies. Taxpayer failed to self-assess use tax on clearly taxable purchases.

1. **Tax Administration** – Penalty

DISCUSSION

Taxpayer's audit report revealed that it failed to self assess use tax for clearly taxable purchases.

Taxpayer requests a waiver of penalties because there was not a Controller employed from the period February 1998 through May 1999 and it has gradually increased its use tax compliance.

Taxpayer failed to self assess use tax on clearly taxable purchases in all years of the audit. A review of taxpayer's prior audit completed on October 17, 1995 indicates there were similar adjustments. For the three-year audit period, the taxpayer failed to self assess use tax on more than thirty percent (30%)

of the use tax due. In addition, taxpayer compliance showed a significant decline in each year of the audit.

The taxpayer was negligent in failing to self-assess and remit use tax on clearly taxable purchases and has not shown reasonable cause for failing to do so.

FINDING

Taxpayer's protest is denied.